IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

::JUDGMENT::

R.S.R.T.C. VS. SMT.BADAMI & ORS.

D.B.SPECIAL APPEAL (C) NO.110 OF 2006 UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT ORDINANCE 1949 AGAINST THE JUDGMENT DATED 28.11.2005 PASSED IN SBC MISC.APPEAL NO.782/1998.

DATE OF JUDGMENT :::: 12.1.2007

PRESENT
HON'BLE JUSTICE MRS.GYAN SUDHA MISRA
HON'BLE MR.JUSTICE K.C.SHARMA

Mr. Chandra Deep Singh for
Mr. Virendra Agrawal for the appellant.

BY THE COURT:

This appeal has been preferred by the Rajasthan State Road Transport Corporation (for short “RSRTC”) against the order of remand passed by the learned Single Judge who has been pleased to hold that the finding recorded by the Tribunal in regard to the onus and negligence of the driver of the vehicle in causing the accident was perverse and hence set aside that finding after which it was remanded to consider the quantum of compensation which was fit to be awarded to the claimants of the deceased.

Assailing the judgment of the learned Single

Judge it was submitted that while remanding the matter before the Tribunal, the learned Single Judge has merely set aside the finding on the question of onus and negligence of the driver of the vehicle in causing the accident and hence if the matter was remanded to the Tribunal, it should not have been remanded merely to compute the quantum of compensation.

We do not find any substance in this plea of the counsel for the appellant for the Tribunal had initially decided that the negligence of the driver of the bus owned and possessed by the RSRTC in causing the accident could not be proved and on that count if the learned Single Judge felt that the finding suffered from perversity and mis-appreciation, it was surely open for the learned Single Judge to remand the matter after setting aside the finding on the same to merely compute the compensation. The question regarding the involvement of the vehicle in the accident and the negligence and onus of the driver in causing the accident had already been adjudicated by the Tribunal which was set aside by the learned Single Jude and therefore it is not open for the counsel for the RSRTC to urge that if at all the

matter was remanded then all the questions should have been left open for adjudication.

We do not find substance in the aforesaid contentions as it is for the Court to consider to what extent and limit the matter could be remanded before the Tribunal and if there were no link between the question regarding computation of the amount of compensation and the liability of the driver in causing the accident as the two issues were totally different from each other and if a finding regarding the involvement of the driver was set aside by the learned Single Judge, the obvious conclusion was to remand the matter to the Tribunal merely to compute the compensation. We thus find no legal infirmity in the impugned order of the learned Single Judge while remanding the same for a limited purpose. The appeal thus has no substance and hence it stands dismissed at the admission stage itself.

(K.C.SHARMA)J. (GYAN SUDHA MISRA)J.

PCG